HIGH COURT OF UTTARANCHAL AT NAINITAL

Criminal Misc. Application No. 685 of 2006

Rakesh Verma s/o Sri D.N.S. Verma
R/o village Chandroti, P.S. Rajpur,
District Dehradun .....Applicant

Versus

1. State of Uttaranchal
2. Gopal Dutt Khabnduri s/o Sri SurajMani, village Jaspur, P.O. Chham, Tehri Garhwal at present C/o Harashmani Silwal, 55 Sumannagar, Dharmpur, Dehradun, District Dehradun .....Opp. Party

Dated : 29.11.06

Hon'ble Rajesh Tandon, J.

Heard Sri Vinod Sharma counsel for the applicant and learned A.G.A. for the respondents.

By the present application under section 482 Cr.P.C. the applicant has challenged the criminal proceedings against the applicant in Case No. 2280 of 2006, State Vs. Rakesh Verma under section 420 I.P.C. pending in the Court of Additional Chief Judicial Magistrate, Dehradun.

According to the applicant, a complaint has been filed under section 156(3) Cr.P.C. to counter the F.I.R. lodged by the applicant against the elder brother of the opposite party no. 2 Murli Ram Khanduri under section 392, 323 I.P.C. which has been registered as criminal case No. 50 of 2004 and the same is pending before the Judicial Magistrate, Dehradun. Further according to the applicant the allegations against him are of

civil nature and no criminal proceedings are maintainable against him.

So far as the instant petition under section 482 Cr.P.C. is concerned no interference can be made under section 482 Cr.P.C. as both the parties will be at liberty to lead the evidence in view of the observations made by the Apex Court in the case Medchl Chemicals and Pharma (P) Ltd. Vs. Biological E. Ltd. And others (2003) 3 SCC 269.

Since the trial has to take place on the basis of complaint for the offence under aforesaid sections, therefore, without expressing any opinion on the merits of the case, I direct the applicant to appear before the Magistrate concerned within 15 days of passing of this order and the court will permit him to file appearance bond to the satisfaction of the Magistrate concerned for their regular appearance in the case.

Subject to the observations made above, application under section 482 Cr.P.C. is disposed of.

Rajesh Tandon, J.

Dated: 29.11.2006
*Dhyani